

Appl. No.: 10/748,113
Amdt. dated 03/31/2006
Reply to Office action of January 4, 2006

REMARKS/ARGUMENTS

This is a full and timely response to the non-final Office Action dated January 4, 2006. Applicant notes with appreciation the Examiner's thorough examination of the application as evidenced by the Office Action.

Prior to the issuance of the present Office Action, claims 1-27 were pending. In response to the present Office Action, Applicant has amended Claims 1, 5, 11 and 14 to expedite prosecution and to further clarify the claimed inventions. Claims 1-27 remain pending.

It is respectfully submitted that pending Claims 1-27 are patentable. As such, Applicant respectfully request reconsideration and allowance of the present claims in light of the following remarks.

Double Patenting Rejection

In the pending Office Action, the Examiner has rejected claims 1-27 based on non-statutory obviousness-type double patenting with reference to U.S. Patent No. 6,669,007. In response to this rejection, the Applicant has filed concurrently herewith a terminal disclaimer to overcome this rejection. Accordingly, the Applicant requests that the Examiner withdraw this rejection.

Claim Rejections – 35 U.S.C. §102

Claims 1-18

The Examiner rejected Claims 1-18 under 35 U.S.C. §102(b) as being anticipated by Van Durrett et al. The rejected claims include independent claims 1, 5, 8, 11 and 15.

As provided in Section 2131 of the MPEP: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Appl. No.: 10/748,113
Amdt. dated 03/31/2006
Reply to Office action of January 4, 2006

Independent Claim 1 and Dependent Claims 2-4

Independent Claim 1 is not anticipated because *Van Durrett* does not disclose every limitation recited in the claim. For example, *Van Durrett* does not disclose "accumulating said packages in side justified alignment on an accumulator in the order in which they were received." The "queuing module" disclosed in *Van Durrett* does not accumulate packages as recited in the Claim 1. Because *Van Durrett* does not disclose every limitation, the §102 rejection is unsupported by the art and should be withdrawn.

Claims 2-4 depend from Independent Claim 1 and therefore the §102 rejection is unsupported by the art and should be withdrawn for these claims as well.

Independent Claim 5 and Dependent Claims 6-7

Independent Claim 5 is not anticipated because *Van Durrett* does not disclose every limitation recited in the claim. For example, *Van Durrett* does not disclose "accumulating said packages on a one-way accumulator in side justified line contact in the order in which they were received." The "queuing module" disclosed in *Van Durrett* does not accumulate packages as recited in the claims. Because *Van Durrett* does not disclose every limitation, the §102 rejection is unsupported by the art and should be withdrawn.

Claims 6-7 depend from Independent Claim 5 and therefore the §102 rejection is unsupported by the art and should be withdrawn for these claims as well.

Independent Claims 8, 15 and dependent claims 9-10 and 16-18

Independent Claims 8 and 15 are not anticipated because *Van Durrett* does not disclose every limitation recited in the claims. For example, *Van Durrett* does not disclose "accumulating said packages on an accumulator in line contact in the order in which they were received." The "queuing module" disclosed in *Van Durrett* does not accumulate packages as recited in the claims. Because *Van Durrett* does not disclose every limitation, the §102 rejection is unsupported by the art and should be withdrawn.

Claims 9-10 depend from Independent Claim 8 and therefore the §102 rejection is unsupported by the art and should be withdrawn for these claims as well.

Appl. No.: 10/748,113
Amdt. dated 03/31/2006
Reply to Office action of January 4, 2006

Claims 16-18 depend from Independent Claim 15 and therefore the §102 rejection is unsupported by the art and should be withdrawn for these claims as well.

Independent Claim 11 and Dependent Claims 12-14

Amended Independent Claim 11 is not anticipated because *Van Durrett* does not disclose every limitation recited in the claim. For example, *Van Durrett* does not disclose "accumulating said packages on an accumulator in line contact in the order in which they were received" as recited in amended Claim 11. The "queuing module" disclosed in *Van Durrett* does not accumulate packages as recited in the claims. Because *Van Durrett* does not disclose every limitation, the §102 rejection is unsupported by the art and should be withdrawn.

Claims 12-14 depend from Independent Claim 11 and therefore the §102 rejection is unsupported by the art and should be withdrawn for these claims as well.

CONCLUSION

After entry of the present amendment, claims 1-27 are pending in the application. In light of this amendment and the remarks presented, the Applicant respectfully submits that all the claims in this application are patentable and the application is now in condition for allowance.

The undersigned is available at (404) 881-7892 if the Examiner has any questions or requests that may be resolved by telephone in order to expedite the examination of this application.

Appl. No.: 10/748,113
Amdt. dated 03/31/2006
Reply to Office action of January 4, 2006

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

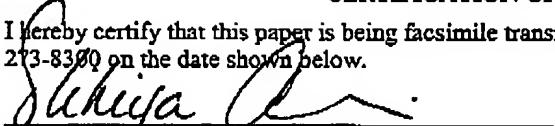
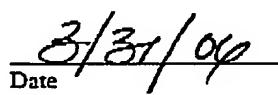


Jeffrey A. Cooper
Registration No. 54,757

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Atlanta Office (404) 881-7000
Fax Atlanta Office (404) 881-7777

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (571) 273-8300 on the date shown below.


Nikiya Celestin
Date